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Attorneys for Defendant
6 T.C. SERVICE COMPANY, INC. DBA TOP CAT AIR TOOLS
7

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION
10

11 IDALIA LOPEZ, et al.,
12 Plaintiffs,
13

14 vs.

15 UNITED ABRASIVES, INC, et al.
16 Defendants.
/

17 ESTATE OF ARIEL MUNOZ GARCIA, et. al.,

18 Plaintiffs,

19 vs.

20 TOP CAT AIR TOOLS, et al.
21 Defendants.
22

Case Number 14-cv-02780-EMC
(Consolidated case: C14-2840 EMC)

STIPULATION AND ORDER RE
POSSESSION OF GRINDING
ELEMENTS

23 WHEREAS Cal-OSHA has represented it currently maintains possession and control of
24 the horizontal grinder and grinding disc [grinding elements] believed to be involved in the
25 subject action; the parties wish to clarify the terms of possession, control, inspection and testing
26
27

28 STIPULATION RE GRINDING ELEMENTS

Idalia Lopez, et al. v. United Abrasives, et al.
14-cv-02780-EMC

1 of said grinding elements and protect said grinding elements from damage, destruction, or any
2 change in the physical condition of said grinding elements during the pendency of this litigation;
3 IT IS HEREBY STIPULATED AND AGREED BY THE PARTIES HERETO, BY AND
4 THROUGH THEIR ATTORNEYS OF RECORD:

5 1. That the parties hereto have authorized their attorneys to enter into this stipulation
6 on their behalf, and this stipulation will be binding upon such parties as if they had signed the
7 stipulation themselves;

8 2. That this stipulation may be signed in counterpart and will have the same force
9 and effect as if a single original were signed by all parties;

10 3. Counsel for Plaintiff Idalia Lopez et al., Law Offices of Fernando Chavez
11 [Chavez], on behalf of its clients, shall serve on Cal-OSHA a Fed. Rule Civ. Pro 45 subpoena for
12 the grinding elements. The parties hereby authorize Chavez to take possession of the grinding
13 elements and shall not object to the subpoena to Cal-OSHA. Chavez shall be permitted to retain
14 possession of the grinding elements for the pendency of this litigation, unless and until the
15 parties enter into a further stipulation regarding custody and control of grinding elements or the
16 court, upon motion by any party, issues a different order regarding custody and control of said
17 grinding elements;

18 4. The grinding elements shall be kept in an opaque container in Chavez's San Jose
19 office during the pendency of this lawsuit and shall be stored in such a manner as to prevent their
20 deterioration or any other change in their physical condition;

21 5. The parties may view, inspect or examine said grinding elements after providing
22 not less than 10 calendar days' notice to all parties;

23 6. Any party wishing to test said grinding elements in a manner which will not alter
24 the physical condition of the grinding elements shall be permitted to do so after providing not
25 less than 10 calendar days' notice to all parties and a description of the proposed testing;

1 7. Any party wishing to perform any testing which may actually or potentially alter
2 the physical condition of the grinding elements shall be permitted to do so only after providing
3 not less than 20 calendar days' notice to all parties and a description of the proposed testing;

4 8. Any party may cause the grinding elements to be transported to another location
5 to be viewed, examined, inspected or tested, provided that reasonable safeguards are taken in the
6 transportation of the grinding elements to assure that their physical condition will not be altered;

7 9. The party requesting any off-site inspection or testing shall make arrangements to
8 have the grinding elements transported to the off-site location from Chavez's San Jose office;

9 10. Once any off-site inspection is complete, the party who requested the inspection
10 or testing shall make arrangements to return the grinding elements to Chavez's San Jose office;


11 11. Each party agrees that its experts, consultants, attorneys, agents and employees
12 shall abide by the terms of this order;

13 12. Notice for purposes of this stipulation shall be written notice either through fax or
14 e-mail and shall include whether the grinding elements are to be moved off-site.

15 IT IS SO STIPULATED.

16 DATED: Oct 27, 2014

ERICKSEN ARBUTHNOT

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20 VON RYAN REYES
21 STEVE W. DOLLAR
22 NATHANIEL R. LUCEY
23 Attorneys for Defendant
24 T.C. SERVICE COMPANY, INC DBA
25 TOP CAT AIR TOOLS

26 DATED: Oct. 14, 2014

ARCHER NORRIS

27
28 
WILLIAM STAPLES
Attorneys for Defendant
UNITED ABRASIVES, INC.

1 DATED: Oct 23, 2014

RUVALCABA & ROMERO

2
3 SANDRA ROMERO
Attorneys for Plaintiffs
4 JOCELINE BETZABEC GALVAN REYES
ET. AL.

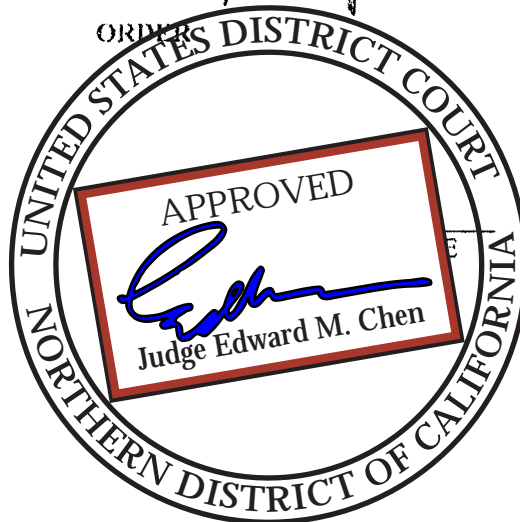
5 DATED: Oct 23, 2014

6 LAW OFFICES OF FERNANDO F.
CHAVEZ

7
8 FERNANDO F. CHAVEZ
Attorneys for Plaintiffs
9 IDALIA LOPEZ ET. AL.

10
11
12 IT IS SO ORDERED.

13
14 10/27/14
15 DATED: _____



CASE NAME: Lopez v. United Abrasives, Inc.
ACTION NO: Northern District of California, Case No. 14-cv-02780-EMC

PROOF OF SERVICE - CIVIL

1. At the time of service I was over 18 years of age and **not a party to this action**.
2. My residence or business address is 152 North Third Street, Suite 700, San Jose, CA 95112.
3. x The fax number or electronic notification address from which I served the documents is
(complete if service was by fax or electronic service):
4. On October 27, 2014, I served the following **documents** (specify):

Stipulation and Order re Possession of Grinding Elements

5. I served the documents on the **person or persons** below, as follows:

Fernando F. Chavez, Esq.
Law Offices of Fernando F. Chavez
1530 The Alameda, Suite 301
San Jose, CA 95126
telephone: (408) 971-3903
facsimile: (408) 971-0117
Ffchavez1530@gmail.com
Attorneys for Plaintiffs - IDALIA LOPEZ

William H. Staples, Esq.
Archer Norris
2033 North Main Street, Suite 800
Walnut Creek, CA 94596-3759
telephone: (925) 930-6600
facsimile: (925) 930-6620
wstaples@archernorris.com
Attorneys for United Abrasives, Inc.

Sandra R. Romero
Ruvalcaba/Romero
1082 E. Meta St.
Ventura, CA 93001
Tel: 805-233-3272
Fax: 805-275-1061
sromero@romerolaw.us

*Attorneys for Plaintiffs- ESTATE OF ARIEL
MUNOZ GARCIA*

6. The documents were served by following means (specify):
 - a. **By personal service.** I personally delivered the documents to the persons at the addresses listed below. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office, between the hours of nine in the morning and five in the evening. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not younger than 18 years of age between the hours of eight in the morning and six in the evening.
 - b. X **By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed below.

(1) _____ deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.

(2) x placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. One the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at San Jose, California.

c. _____ **By overnight delivery.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

d. _____ **By messenger service.** I served the documents by placing them in an envelope or package addressed to the persons listed below and providing them to a professional messenger service for service. *(A declaration by the messenger must accompany this Proof of Service.)*

e. _____ **By fax transmission.** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons listed below. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.

W f. _____ **By electronic service.** Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the electronic notification addresses listed below.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: October 27, 2014

Robyn Parker

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)